UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,977	06/27/2005	Tomohiko Taniguchi	2005_0955A	9267

513   7590   05/03/2007

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER
FAULK, DEVONA E

ART UNIT	PAPER NUMBER
2615	

MAIL DATE	DELIVERY MODE
05/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 January 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-18 and 21-29* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-18 and 21-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>27 June 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☒ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Remarks

1.   Claims 1-15,19-20 are cancelled.

2.   Claims 16 and 17 were indicated as containing allowable subject matter in the previous office action. The applicant has rewritten claims 16 and 17 in independent form and claims 21 and 23 are apparatus claims for claims 16 and 17.

3.   The indicated allowability of claims 16 and 17 is withdrawn in view of the newly discovered reference(s) to Dobbs et al. (US 5,566,237). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   **Claims 16,17,21-29** rejected under 35 U.S.C. 103(a) as being unpatentable over Dobbs et al. (US 5,566,237) in view of Elliot et al. (7,110,558).

Regarding **claim 16**, Dobbs discloses a method of setting an audio output level comprising:

storing a plurality of thresholds associated with clock time information

preliminarily (column 2, lines 45-column 3, line15; column 8, line 63- column 9, line 65);

selecting one of the plurality of thresholds corresponding to a current clock

time column 8, line 63- column 9, line 65);

and requesting an acknowledgment that a setting of the audio output level

is to be changed (column 8, lines 8-33)

Dobbs fails to disclose that the acknowledgment is requested when a setting

exceeds a selected threshold.

Modifying a volume setting when a value exceeds a threshold is known in

the art as taught by Elliot. Elliot discloses modifying the setting when the setting

exceeds a threshold (column 2, lines 10-19).

It would have been obvious to modify Dobbs so that the request for

acknowledgement is requested when a setting exceeds a threshold level to a greater

degree of volume control to the user.

Regarding **claim 17**, Dobbs discloses a method of setting an audio output level

comprising:

storing a plurality of thresholds associated with clock time information

preliminarily (column 2, lines 45-column 3, line15; column 8, line 63- column 9, line 65);

selecting one of the plurality of thresholds corresponding to a currently

connected audio device (column 8, line 63- column 9, line 65);

and requesting an acknowledgment that a setting of the audio output level

is to be changed (column 8, lines 8-33)

Dobbs fails to disclose that the acknowledgment is requested when a setting exceeds a selected threshold.

Modifying a volume setting when a value exceeds a threshold is known in the art as taught by Elliot. Elliot discloses modifying the a setting when the setting exceeds a threshold (column 2, lines 10-19).

It would have been obvious to modify Dobbs so that the request for acknowledgement is requested when a setting exceeds a threshold level to a greater degrees of volume control to the user.

All elements of **claims 18 and 25** are comprehended by the rejection of claim 16.

All elements of **claims 27 and 29** are comprehended by the rejection of claim 16.

Regarding **claims 26 and 28**, Dobbs as modified discloses a preprogrammed system. Dobbs as modified fails to disclose changing the setting of the audio level if an acknowledgment is given that the setting is to be changed with a given time after requesting the acknowledgement. The examiner the designer of the system determines when the audio is changed. It would have been obvious to modify Dobbs and Elliot so that the audio output level is changed according to claims 26 and 28 in order to meet some design specification that provides an even greater level of volume control to the user

Regarding **claim 21**, Dobbs discloses a device for setting an audio output level comprising:

a storage unit operable to store a plurality of thresholds associated with clock time information preliminarily (memory, Figure 1; column 10, lines 32-37; column

5, lines 10-60; column 2, lines 45-column 3, line15; column 8, line 63- column 9, line
65);

a selecting unit operable to select one of the plurality of thresholds
corresponding to a current clock time (rotary encoder 16, Figure 1; column 7,line 48-
column 9, line 65);

and a requesting unit operable to request an acknowledgment that a
setting of the audio output level is to be changed (rotary encoder 16; column 8, lines 8-
33 and 50-62)

Dobbs fails to disclose that the acknowledgment is requested when a setting
exceeds a selected threshold.

Modifying a volume setting when a value exceeds a threshold is known in
the art as taught by Elliot. Elliot discloses modifying the a setting when the setting
exceeds a threshold (column 2, lines 10-19).

It would have been obvious to modify Dobbs so that the request for
acknowledgement is requested when a setting exceeds a threshold level to provide a
greater degree of volume control to the user.

All elements of **claim 22** are comprehended by the rejection of claim 21.

Regarding **claim 23**, Dobbs discloses a device for setting an audio output level
comprising:

a storage unit operable to store a plurality of thresholds associated with
clock time information preliminarily (memory, Figure 1; column 10, lines 32-37; column

5, lines 10-60; column 2, lines 45-column 3, line15; column 8, line 63- column 9, line

65);

a selecting unit operable to select one of the plurality of thresholds

corresponding to a currently connected audio device (rotary encoder 16, Figure 1;

column 7,line 48- column 9, line 65);

and a requesting unit operable to request an acknowledgment that a

setting of the audio output level is to be changed (rotary encoder 16; column 8, lines 8-

33 and 50-62)

Dobbs fails to disclose that the acknowledgment is requested when a setting

exceeds a selected threshold.

Modifying a volume setting when a value exceeds a threshold is known in

the art as taught by Elliot. Elliot discloses modifying the a setting when the setting

exceeds a threshold (column 2, lines 10-19).

It would have been obvious to modify Dobbs so that the request for

acknowledgement is requested when a setting exceeds a threshold level to provide a

greater degree of volume control to the user.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Devona E. Faulk whose telephone number is 571-272-

7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848.

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2615. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DEF

VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600